



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4703

Introduced 1/12/2006, by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-117-12.2
215 ILCS 5/224.05
220 ILCS 5/8-201.5
815 ILCS 205/4.05
815 ILCS 633/20 new
815 ILCS 636/37

Amends the Illinois Municipal Code; provides that a municipality that violates provisions prohibiting the stoppage of gas or electricity in connection with a service member who is on active duty is subject to a civil penalty of \$10,000. Amends the Illinois Insurance Code; provides that an insurance company that violates provisions prohibiting the lapse or forfeiture of a life insurance policy insuring the life of a service member who is on active duty is subject to a civil penalty of \$10,000. Amends the Public Utilities Act; provides that a gas or electric company or electric cooperative that violates provisions prohibiting the stoppage of gas or electricity in connection with a service member who is on active duty is subject to a civil penalty of \$10,000. Amends the Interest Act; provides that a creditor who violates provisions limiting the interest rate that may be imposed on a service member who is on active duty is subject to a civil penalty of \$10,000. Amends the Military Personnel Cellular Phone Contract Termination Act; provides that a cellular telephone company that violates provisions authorizing termination of a cellular phone contract in the case of a service member who is on active duty is subject to a civil penalty of \$10,000. Amends the Motor Vehicle Leasing Act; provides that a lessor who violates provisions authorizing termination of a lease in the case of a service member who is on active duty is subject to a civil penalty of \$10,000. In each case, authorizes the Attorney General to impose the civil penalty after an administrative hearing and to enforce collection of any civil penalty imposed. Provides that the proceeds from the collection of any such civil penalty shall be deposited into the Illinois Military Family Relief Fund. Effective immediately.

LRB094 15915 DRJ 51140 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning military personnel.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-117-12.2 as follows:

6 (65 ILCS 5/11-117-12.2)

7 Sec. 11-117-12.2. Military personnel on active duty; no
8 stoppage of gas or electricity; arrearage.

9 (a) In this Section:

10 "Active duty" means active duty pursuant to an executive
11 order of the President of the United States, an act of the
12 Congress of the United States, or an order of the Governor.

13 "Service member" means a member of the armed services or
14 reserve forces of the United States or a member of the Illinois
15 National Guard.

16 (b) No municipality owning a public utility shall stop gas
17 or electricity from entering the residential premises of which
18 a service member was a primary occupant immediately before the
19 service member was deployed on active duty for nonpayment for
20 gas or electricity supplied to the residential premises.

21 (c) Upon the return from active duty of a residential
22 consumer who is a service member, the municipality shall offer
23 the residential consumer a period equal to at least the period
24 of the residential consumer's deployment on active duty to pay
25 any arrearages incurred during the period of the residential
26 consumer's deployment. The municipality shall inform the
27 residential consumer that, if the period the municipality
28 offers presents a hardship to the consumer, the consumer may
29 request a longer period to pay the arrearages.

30 (d) In order to be eligible for the benefits granted to
31 service members under this Section, a service member must
32 provide the municipality with a copy of the military or

1 gubernatorial orders calling the service member to active duty
2 and of any orders further extending the service member's period
3 of active duty.

4 (e) In addition to any other penalty that may be provided
5 by law, a municipality that violates this Section is subject to
6 a civil penalty of \$10,000. The Attorney General may impose a
7 civil penalty under this subsection only after he or she
8 provides the following to the affected municipality:

9 (1) Written notice of the alleged violation.

10 (2) Written notice of the municipality's right to
11 request an administrative hearing on the question of the
12 alleged violation.

13 (3) An opportunity to present evidence, orally or in
14 writing or both, on the question of the alleged violation
15 before an impartial hearing examiner appointed by the
16 Attorney General.

17 (4) A written decision from the Attorney General, based
18 on the evidence introduced at the hearing and the hearing
19 examiner's recommendations, finding that the municipality
20 violated this Section and imposing the civil penalty.

21 The Attorney General may bring an action in the circuit
22 court to enforce the collection of a civil penalty imposed
23 under this subsection.

24 All proceeds from the collection of any civil penalty
25 imposed under this subsection shall be deposited into the
26 Illinois Military Family Relief Fund.

27 (Source: P.A. 94-635, eff. 8-22-05.)

28 Section 10. The Illinois Insurance Code is amended by
29 changing Section 224.05 as follows:

30 (215 ILCS 5/224.05)

31 Sec. 224.05. Military personnel on active duty; no lapse of
32 life insurance policy.

33 (a) Except as provided in subsection (b), this Section
34 shall apply to any individual life insurance policy insuring

1 the life of a member of the armed services or reserve forces of
2 the United States or a member of the Illinois National Guard
3 who is on active duty pursuant to an executive order of the
4 President of the United States, an act of the Congress of the
5 United States, or an order of the Governor, if the life
6 insurance policy meets both of the following conditions:

7 (1) The policy has been in force for at least 180 days.

8 (2) The policy has been brought within the
9 "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003),
10 50 U.S.C. App. 541 and following.

11 (b) This Section does not apply to any policy that was
12 cancelled or that had lapsed for the nonpayment of premiums
13 prior to the commencement of the insured's period of military
14 service.

15 (c) An individual life insurance policy described in this
16 Section shall not lapse or be forfeited for the nonpayment of
17 premiums during the military service of a member of the armed
18 services or reserve forces of the United States or a member of
19 the Illinois National Guard or during the 2-year period
20 subsequent to the end of the member's period of military
21 service.

22 (d) In order to be eligible for the benefits granted to
23 service members under this Section, a service member must
24 provide the life insurance company with a copy of the military
25 or gubernatorial orders calling the service member to active
26 duty and of any orders further extending the service member's
27 period of active duty.

28 (e) This Section does not limit a life insurance company's
29 enforcement of provisions in the insured's policy relating to
30 naval or military service in time of war.

31 (f) In addition to any other penalty that may be provided
32 by law, an insurance company that violates this Section is
33 subject to a civil penalty of \$10,000. The Attorney General may
34 impose a civil penalty under this subsection only after he or
35 she provides the following to the affected insurance company:

36 (1) Written notice of the alleged violation.

1 (2) Written notice of the insurance company's right to
2 request an administrative hearing on the question of the
3 alleged violation.

4 (3) An opportunity to present evidence, orally or in
5 writing or both, on the question of the alleged violation
6 before an impartial hearing examiner appointed by the
7 Attorney General.

8 (4) A written decision from the Attorney General, based
9 on the evidence introduced at the hearing and the hearing
10 examiner's recommendations, finding that the insurance
11 company violated this Section and imposing the civil
12 penalty.

13 The Attorney General may bring an action in the circuit
14 court to enforce the collection of a civil penalty imposed
15 under this subsection.

16 All proceeds from the collection of any civil penalty
17 imposed under this subsection shall be deposited into the
18 Illinois Military Family Relief Fund.

19 (Source: P.A. 94-635, eff. 8-22-05.)

20 Section 15. The Public Utilities Act is amended by changing
21 Section 8-201.5 as follows:

22 (220 ILCS 5/8-201.5)

23 Sec. 8-201.5. Military personnel on active duty; no
24 stoppage of gas or electricity; arrearage.

25 (a) In this Section:

26 "Active duty" means active duty pursuant to an executive
27 order of the President of the United States, an act of the
28 Congress of the United States, or an order of the Governor.

29 "Service member" means a member of the armed services or
30 reserve forces of the United States or a member of the Illinois
31 National Guard.

32 (b) No company or electric cooperative shall stop gas or
33 electricity from entering the residential premises of which a
34 service member was a primary occupant immediately before the

1 service member was deployed on active duty for nonpayment for
2 gas or electricity supplied to the residential premises.

3 (c) In order to be eligible for the benefits granted to
4 service members under this Section, a service member must
5 provide the company or electric cooperative with a copy of the
6 military or gubernatorial orders calling the service member to
7 active duty and of any orders further extending the service
8 member's period of active duty.

9 (d) Upon the return from active duty of a residential
10 consumer who is a service member, the company or electric
11 cooperative shall offer the residential consumer a period equal
12 to at least the period of deployment on active duty to pay any
13 arrearages incurred during the period of the residential
14 consumer's deployment. The company or electric cooperative
15 shall inform the residential consumer that, if the period that
16 the company or electric cooperative offers presents a hardship
17 to the consumer, the consumer may request a longer period to
18 pay the arrearages and, in the case of a company that is a
19 public utility, may request the assistance of the Illinois
20 Commerce Commission to obtain a longer period. No late payment
21 fees or interest shall be charged to the residential consumer
22 during the period of deployment or the repayment period.

23 (e) In addition to any other penalty that may be provided
24 by law, a company or electric cooperative that violates this
25 Section is subject to a civil penalty of \$10,000. The Attorney
26 General may impose a civil penalty under this subsection only
27 after he or she provides the following to the affected company
28 or electric cooperative:

29 (1) Written notice of the alleged violation.

30 (2) Written notice of the company or electric
31 cooperative's right to request an administrative hearing
32 on the question of the alleged violation.

33 (3) An opportunity to present evidence, orally or in
34 writing or both, on the question of the alleged violation
35 before an impartial hearing examiner appointed by the
36 Attorney General.

1 (4) A written decision from the Attorney General, based
2 on the evidence introduced at the hearing and the hearing
3 examiner's recommendations, finding that the company or
4 electric cooperative violated this Section and imposing
5 the civil penalty.

6 The Attorney General may bring an action in the circuit
7 court to enforce the collection of a civil penalty imposed
8 under this subsection.

9 All proceeds from the collection of any civil penalty
10 imposed under this subsection shall be deposited into the
11 Illinois Military Family Relief Fund.

12 (Source: P.A. 94-635, eff. 8-22-05.)

13 Section 20. The Interest Act is amended by changing Section
14 4.05 as follows:

15 (815 ILCS 205/4.05)

16 Sec. 4.05. Military personnel on active duty; limitation on
17 interest rate.

18 (a) In this Section:

19 "Active duty" means active duty pursuant to an executive
20 order of the President of the United States, an act of the
21 Congress of the United States, or an order of the Governor.

22 "Obligation" means any retail installment sales contract,
23 other contract for the purchase of goods or services, or bond,
24 bill, note, or other instrument of writing for the payment of
25 money arising out of a contract or other transaction for the
26 purchase of goods or services.

27 "Service member" means a member of the armed services or
28 reserve forces of the United States or a member of the Illinois
29 National Guard.

30 (b) Notwithstanding any contrary provision of State law,
31 but subject to the federal Servicemembers Civil Relief Act, no
32 creditor in connection with an obligation entered into on or
33 after the effective date of this amendatory Act of the 94th
34 General Assembly, but prior to a service member's deployment on

1 active duty, shall charge or collect from a service member who
2 is deployed on active duty, or the spouse of that service
3 member, interest or finance charges exceeding 6% per annum
4 during the period that the service member is deployed on active
5 duty.

6 (c) Notwithstanding any contrary provision of law,
7 interest or finance charges in excess of 6% per annum that
8 otherwise would be incurred but for the prohibition in
9 subsection (b) are forgiven.

10 (d) The amount of any periodic payment due from a service
11 member who is deployed on active duty, or the spouse of that
12 service member, under the terms of the obligation shall be
13 reduced by the amount of the interest and finance charges
14 forgiven under subsection (c) that is allocable to the period
15 for which the periodic payment is made.

16 (e) In order for an obligation to be subject to the
17 interest and finance charges limitation of this Section, the
18 service member deployed on active duty, or the spouse of that
19 service member, shall provide the creditor with written notice
20 of and a copy of the military or gubernatorial orders calling
21 the service member to active duty and of any orders further
22 extending the service member's period of active duty, not later
23 than 180 days after the date of the service member's
24 termination of or release from active duty.

25 (f) Upon receipt of the written notice and a copy of the
26 orders referred to in subsection (e), the creditor shall treat
27 the obligation in accordance with subsection (b), effective as
28 of the date on which the service member is deployed to active
29 duty.

30 (g) A court may grant a creditor relief from the interest
31 and finance charges limitation of this Section, if, in the
32 opinion of the court, the ability of the service member
33 deployed on active duty, or the spouse of that service member,
34 to pay interest or finance charges with respect to the
35 obligation at a rate in excess of 6% per annum is not
36 materially affected by reason of the service member's

1 deployment on active duty.

2 (h) In addition to any other penalty that may be provided
3 by law, a creditor that violates this Section is subject to a
4 civil penalty of \$10,000. The Attorney General may impose a
5 civil penalty under this subsection only after he or she
6 provides the following to the affected creditor:

7 (1) Written notice of the alleged violation.

8 (2) Written notice of the creditor's right to request
9 an administrative hearing on the question of the alleged
10 violation.

11 (3) An opportunity to present evidence, orally or in
12 writing or both, on the question of the alleged violation
13 before an impartial hearing examiner appointed by the
14 Attorney General.

15 (4) A written decision from the Attorney General, based
16 on the evidence introduced at the hearing and the hearing
17 examiner's recommendations, finding that the creditor
18 violated this Section and imposing the civil penalty.

19 The Attorney General may bring an action in the circuit
20 court to enforce the collection of a civil penalty imposed
21 under this subsection.

22 All proceeds from the collection of any civil penalty
23 imposed under this subsection shall be deposited into the
24 Illinois Military Family Relief Fund.

25 (Source: P.A. 94-635, eff. 8-22-05.)

26 Section 25. The Military Personnel Cellular Phone Contract
27 Termination Act is amended by adding Section 20 as follows:

28 (815 ILCS 633/20 new)

29 Sec. 20. Cellular telephone company's failure to comply;
30 penalty. In addition to any other penalty that may be provided
31 by law, a cellular telephone company that violates this Act is
32 subject to a civil penalty of \$10,000. The Attorney General may
33 impose a civil penalty under this Section only after he or she
34 provides the following to the affected cellular telephone

1 company:

2 (1) Written notice of the alleged violation.

3 (2) Written notice of the cellular telephone company's
4 right to request an administrative hearing on the question
5 of the alleged violation.

6 (3) An opportunity to present evidence, orally or in
7 writing or both, on the question of the alleged violation
8 before an impartial hearing examiner appointed by the
9 Attorney General.

10 (4) A written decision from the Attorney General, based
11 on the evidence introduced at the hearing and the hearing
12 examiner's recommendations, finding that the cellular
13 telephone company violated this Act and imposing the civil
14 penalty.

15 The Attorney General may bring an action in the circuit
16 court to enforce the collection of a civil penalty imposed
17 under this Section.

18 All proceeds from the collection of any civil penalty
19 imposed under this Section shall be deposited into the Illinois
20 Military Family Relief Fund.

21 Section 30. The Motor Vehicle Leasing Act is amended by
22 changing Section 37 as follows:

23 (815 ILCS 636/37)

24 Sec. 37. Military personnel on active duty; termination of
25 lease.

26 (a) In this Act:

27 "Active duty" means active duty pursuant to an executive
28 order of the President of the United States, an act of the
29 Congress of the United States, or an order of the Governor.

30 "Motor vehicle" means any automobile, car minivan,
31 passenger van, sport utility vehicle, pickup truck, or other
32 self-propelled vehicle not operated or driven on fixed rails or
33 track.

34 "Service member" means a member of the armed services or

1 reserve forces of the United States or a member of the Illinois
2 National Guard.

3 (b) Any service member who is deployed on active duty for a
4 period of not less than 180 days, or the spouse of that service
5 member, may terminate any motor vehicle lease that meets both
6 of the following requirements:

7 (1) The lease is entered into on or after the effective
8 date of this amendatory Act of the 94th General Assembly.

9 (2) The lease is executed by or on behalf of the
10 service member who is deployed on active duty.

11 (c) Termination of the motor vehicle lease shall not be
12 effective until:

13 (1) the service member who is deployed on active duty,
14 or the service member's spouse, gives the lessor by
15 certified mail, return receipt requested, a notice of the
16 intention to terminate the lease together with a copy of
17 the military or gubernatorial orders calling the service
18 member to active duty and of any orders further extending
19 the service member's period of active duty; and

20 (2) the motor vehicle subject to the lease is returned
21 to the custody or control of the lessor not later than 15
22 days after the delivery of the written notice.

23 (d) Lease amounts unpaid for the period preceding the
24 effective date of the lease's termination shall be paid on a
25 prorated basis. The lessor may not impose an early termination
26 charge, but any taxes, costs of summons, and title or
27 registration fees and any other obligation and liability of the
28 lessee under the terms of the lease, including reasonable
29 charges to the lessee for excess wear, use, and mileage, that
30 are due and unpaid at the time of the lease's termination shall
31 be paid by the lessee.

32 (e) The lessor shall refund to the lessee lease amounts
33 paid in advance for a period after the effective date of the
34 lease's termination within 30 days after the effective date of
35 the lease's termination.

36 (f) Upon application by the lessor to a court before the

1 effective date of the lease's termination, relief granted by
2 this Section may be modified as justice and equity require.

3 (g) In addition to any other penalty that may be provided
4 by law, a lessor that violates this Section is subject to a
5 civil penalty of \$10,000. The Attorney General may impose a
6 civil penalty under this subsection only after he or she
7 provides the following to the affected lessor:

8 (1) Written notice of the alleged violation.

9 (2) Written notice of the lessor's right to request an
10 administrative hearing on the question of the alleged
11 violation.

12 (3) An opportunity to present evidence, orally or in
13 writing or both, on the question of the alleged violation
14 before an impartial hearing examiner appointed by the
15 Attorney General.

16 (4) A written decision from the Attorney General, based
17 on the evidence introduced at the hearing and the hearing
18 examiner's recommendations, finding that the lessor
19 violated this Section and imposing the civil penalty.

20 The Attorney General may bring an action in the circuit
21 court to enforce the collection of a civil penalty imposed
22 under this subsection.

23 All proceeds from the collection of any civil penalty
24 imposed under this subsection shall be deposited into the
25 Illinois Military Family Relief Fund.

26 (Source: P.A. 94-635, eff. 8-22-05.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.